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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/662,737   | 09/15/2000  | KIMBO MUNDY          | BDE-001CN (431/6)   | 2466             |
| 23370  | 7590        | 12/12/2005           | EXAMINER            |                  |
| JOHN S. PRATT, ESQ<br>KILPATRICK STOCKTON, LLP<br>1100 PEACHTREE STREET<br>ATLANTA, GA 30309 |             |                      | COLBERT, ELLA       |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3624                |                  |

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/662,737 | <b>Applicant(s)</b><br>MUNDY ET AL |  |
|                              | <b>Examiner</b><br>Ella Colbert      | <b>Art Unit</b><br>3624            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-33, 35-37, 39-44 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) 35-37, 39-44, 48 and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-33 and 47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06 June 2005</u> . | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1. Claims 2-33, 35-37, 39-44, and 47-49 are pending in this communication filed 10/05/05 entered as Response to Election/Restriction Requirement. Group I, Claims 47 and 2-33 were provisionally elected and will be examined on the merits. Group II, claims 48, 49, 35-37, and 39-44 are considered withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 47 is rejected under 35 U.S.C. 102(e) as being anticipated by (US 6,961,712) Perkowski.

With respect to claim 47, Perkowski teaches, receiving a specification of a class of items by a selected shopper via a host user interface provided by a host computer that is in communication with a plurality of enterprises over a network, wherein each

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enterprise offers items for exchange over the network, stores information about the items it offers in an enterprise database and interacts directly with shoppers (col. 20, lines 14-47, fig. 1, fig. 2c, fig. 4P, and fig. 4P2); in response to the specification of the class of items by the shopper, collecting information about a selected item within the class from at least two enterprises and information about a second selected item within the class from at least one enterprise (col. 16, line 19-col. 17, line 4, col. 36, line 52-col. 37, line 14, col. 29, lines 13-40, fig. 4A1 and fig. 4B); and storing the information collected from the enterprises in a host database; and providing the information collected from the enterprises to the selected shopper via the host user interface (col. 9, line 62-col. 10, line 49).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,961,712) Perkowski in view of (US 6,424,979) Livingston et al, hereafter Livingston.

With respect to claim 2, Perkowski failed to teach, the collecting information includes crawling HTML page trees. Livingston teaches, the enterprise databases include HTML page trees (col. 12, lines 18-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to collect the information including crawling HTML page trees in as taught by Livingston because this would enable Perkowski to have the data represented as a hierarchical tree, so the system can navigate the tree to retrieve the components it needs to build the page. HTML page trees are well known in the Internet art.

With respect to claim 3, Perkowski failed to teach, collecting information includes crawling XML page trees. Livingston teaches, collecting information includes crawling XML page trees (col. 9, lines 47-51 and lines 63-54, col. 11, lines 43-52, col. 12, lines 1-23, fig. 4, step 79, fig. 8, steps 174, 176, & 180 and fig. 20). It would have been obvious

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to one having ordinary skill in the art at the time the invention was made collect information to include crawling XML page trees in Perkowski as taught by Livingston because this would enable Perkowski to have XML data that is represented as a hierarchical tree, so the system can navigate the tree to retrieve the components to build the page and a generator to compare the user's request to the attributes stored in the XML tags that mark the tree's components and only returns the information. XML page trees are well known in the Internet art.

With respect to claim 4, Perkowski failed to teach, collecting information is publicly accessible. Livingston teaches, collecting information is publicly accessible information (col. 5, lines 56-62 and col. 8, lines 28-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the collected information publicly accessible information and to modify in Perkowski because such a modification would allow Perkowski to have information displayed to the user with no unnecessary information being presented.

With respect to claim 5, Perkowski teaches, wherein the collecting information includes collecting information from auction sites offering items for purchase over the network and the enterprise databases comprise auction databases associated with the auction sites (col. 17, lines 27-38 and col. 20, lines 4-23).

With respect to claim 6, Perkowski teaches wherein collecting information from auction sites (col. Col. 11, lines 44-47) and Livingston teaches, crawling HTML page trees. However, Perkowski does teach an auction. Livingston teaches, crawling HTML page trees (col. 12, lines 18-23), (see claim 2), *supra*.

With respect to claim 7, Perkowski failed to teach, wherein the auction databases include XLM page trees (see claims 3 and 6), *supra*.

With respect to claim 8, this dependent claim is rejected for the similar rationale given for claim 4, *supra*.

With respect to claim 9, Perkowski teaches, periodically collecting information enterprises and updating the information stored in the host database (col. 16, line 19-col. 17, line 4, col. 36, line 52-col. 37, line 14, col. 29, lines 13-40, fig. 4A1 and fig. 4B).

With respect to claim 10, Perkowski teaches, wherein updating the information stored in the host database comprises updating the information stored in the host database with sufficient frequency to enable the shoppers to monitor and participate effectively in bidding activity at the auction sites (col. 9, lines 46-61).

7. Claims 11-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,961,712) Perkowski, (US 6,424,979) Livingston et al, hereafter Livingston in view of (US 5,835,896) Fisher.

With respect to claim 11, Perkowski and Livingston failed to teach, dynamically scheduling the collecting of information from the auction databases based upon content of previously collected information.

Fisher teaches, dynamically scheduling the collecting of information from the auction databases based upon content of previously collected information (col. 7, lines 50-65 and col. 8, lines 42-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to dynamically schedule the collecting of information from the auction databases based upon content of previously collected

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information and to include in Perkowski because a host computer is well-known in the art as being the main computer in a system of terminals connected by communications links and by including this feature in Perkowski's securities trading system, in order to allow the auction manager to schedule information to the auction database as merchandise items are scheduled for posting and opened for bidding.

With respect to claim 12, Perkowski and Livingston failed to teach, receiving, via the host user interface, an auction watch request from the selected shopper for a third selected item, monitoring with the host computer bidding activity at a specified auction site for the third selected item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host user interface. Fisher teaches, receiving, via the host user interface, an auction watch request from the selected shopper for a third selected item, monitoring with the host computer bidding activity at a specified auction site for the third selected item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host user interface (col. 6, lines 39-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive, via the host user interface, an auction watch request from the selected shopper for a third selected item, monitoring with the host computer bidding activity at a specified auction site for the third selected item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host user interface and to include in Perkowski's although the word graphical user interface does not appear to be employed, the recited "order book is displayed on the customer's terminal must have



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had a GUI in order to function at the time of the invention, hence the inherence of GUI which is well known in the art.

With respect to claim 13, is rejected for the similar rationale given for claim 11, *supra*.

With respect to claim 14, Perkowski and Livingston failed to teach, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update request. Fisher teaches, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update request (col. 4, lines 32-45, col. 6, lines 31-45, col. 7, lines 66-67, col. 8, lines 1-4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update request and to include in Perkowski's securities trading system, in order to allow the electronic bid information to be placed in the database and to have the auction manager frequently query the database to see if any new bids have been placed then to have the catalog page generator to regenerate a catalog in an electronic auction system. The bid information is sent to the bidder via electronic mail.

With respect to claim 15, is rejected for the similar rationale as given for claim 9, *supra*.

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With respect to claim 16, Perkowski and Livingston failed to teach, wherein the host graphical user interface is adapted for enabling the shopper to enter an update request and the host is further adapted for updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests. Fisher teaches, wherein the host graphical user interface is adapted for enabling the shopper to enter an update request and the host is further adapted for updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests (col. 7, lines 15-23 and lines 32-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a graphical user interface adapted for enabling the shopper to enter an update request and the host is further adapted for updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests and to include in Perkowski's securities trading system, in order to allow the electronic auction system to record the records to show the bids and updates of the lot's merchandise catalog page to show the current high bids or bids and to whom such bids are attributable.

With respect to claim 17, Perkowski and Livingston failed to teach, wherein the host graphical user interface is adapted for enabling the shopper to enter an item watch request specifying a particular item for monitoring and the host is further adapted for monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the shopper entering the item watch request. Fisher teaches, wherein the host graphical user interface is adapted for enabling the shopper

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to enter an item watch request specifying a particular item for monitoring and the host is further adapted for monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the shopper entering the item watch request (col. 7, lines 24-65 and col. 9, lines 36-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a graphical user interface adapted for enabling the shopper to enter an item watch request specifying a particular item for monitoring and the host is further adapted for monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the shopper entering the item watch request and to include in Perkowski's securities trading system, in order to allow potential customers to watch the merchandise catalog pages and to place bids in an electronic auction system.

With respect to claim 18, Perkowski and Livingston failed to teach, wherein the host computer is further adapted for providing the shopper with notification in response to detecting the specified item becoming available for bidding and wherein the host computer provides the notification by way of a host initiated non-(host graphical user interface) mechanism. Fisher teaches, the host computer is further adapted for providing the shopper with notification in response to detecting the specified item becoming available for bidding and wherein the host provides the notification by way of a host initiated non-(host graphical user interface) mechanism (col. 6, lines 46-65 and col. 11, lines 4-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host computer further adapted for providing the shopper with notification in response to detecting the specified item becoming

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available for bidding and wherein the host provides the notification by way of a host initiated non-(host graphical user interface) mechanism and to include in Perkowski's securities trading system, in order to allow potential customers to watch the merchandise catalog pages and to place bids in an electronic auction system. The bid information is sent to the bidder via electronic mail.

With respect to claim 19, Perkowski and Livingston failed to teach, wherein the host graphical user interface is adapted for enabling the shopper to enter the market watch request specifying a class of items for monitoring and the host is further adapted for detecting the availability of items from previously detected ones of the items.

Fisher teaches, the host graphical user interface is adapted for enabling the shopper to enter the market watch request specifying a class of items for monitoring and the host is further adapted for detecting the availability of items from previously detected ones of the items (col. 7, lines 8-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host adapted for enabling the shopper to enter the market watch request specifying a class of items for monitoring and the host is further adapted for detecting the availability of items from previously detected ones of the items and to include in Perkowski's aggregated securities trading system, in order to allow the selection of items to purchase and to list items for sales and prices.

With respect to claim 20, Perkowski and Livingston failed to teach, wherein the host computer is further adapted for distinguishing between newly detected ones of the items from previously detected ones of the items. Fisher teaches, the host computer is

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further adapted for distinguishing between newly detected ones of the items from previously detected ones of the items (col. 8, lines 42-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host computer adapted for distinguishing between newly detected ones of the items from previously detected ones of the items and to include in Perkowski's securities trading system, in order to allow the selection of items to purchase and to list new items for sale and bidding.

With respect to claim 21, Perkowski and Livingston failed to teach, wherein the host computer is further adapted for providing the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host initiated mechanism. Fisher teaches, the host computer is further adapted for providing the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host initiated mechanism (col. 9, lines 36-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host computer adapted for providing the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host initiated mechanism and to include in Perkowski's securities trading system, in order to allow potential customers to watch the merchandise catalog pages and to place bids on a class of items in an electronic auction system. The information is sent to the bidder via electronic mail.

With respect to claim 22, this claim is rejected for the similar rationale given for claim 18, *supra*.

With respect to claim 23, Perkowski and Livingston failed to teach wherein the host initiated mechanism includes at least one of electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone. Fisher teaches, the host initiated mechanism includes at least one of electronic mail (col. 2, lines 11-16), Internet messaging, pager, facsimile (col. 1, line 52), telephone (col. 1, line 55), and Web telephone (col. 1, lines 60-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host initiated mechanism that includes at least one of electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone and to include in Perkowski's securities trading system, in order to allow customers to submit bids and to know the winning bidder or bidders and the losing bidder or bidders.

With respect to claim 24, Perkowski and Livingston failed to teach, wherein content provided by the host-initiated mechanism includes a hyperlink to the host graphical user interface. Fisher teaches, content provided by the host initiated mechanism includes a hyperlink to the host graphical user interface (col. 4, lines 32-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the content provided by the host initiated mechanism includes a hyperlink to the host graphical user interface and to include in Perkowski's trading system, in order to allow an underlined or otherwise emphasized word or phrase to display another document when clicked with the mouse and the graphical user

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interface works with the mousable interfaces with pull-down menus, dialog boxes, checkboxes, radio buttons, drop-down list boxes, scroll bars, and scroll boxes which are well known in the art.

With respect to claim 25, Perkowski and Livingston failed to teach, wherein the host graphical user interface is adapted for enabling the shopper to enter a host database query specifying a class of items and the host computer is further adapted for searching the host database for items within the class of items and for displaying auction information with regard to the items within the class of items to the shopper by way of the host graphical user interface. Fisher teaches, wherein the host graphical user interface is adapted for enabling the shopper to enter a host database query specifying a class of items and the host computer is further adapted for searching the host database for items within the class of items and for displaying auction information with regard to the items within the class of items to the shopper by way of the host graphical user interface (col. 7, line 66-col. 8, line 14 and lines 30-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host graphical user interface is adapted for enabling the shopper to enter a host database query specifying a class of items and the host computer is further adapted for searching the host database for items within the class of items and for displaying auction information with regard to the items within the class of items to the shopper by way of the host graphical user interface and to modify in Perkowski because such a modification would allow Perkowski to have the ability to access Internet sites and to specify particular items (stocks) and to display the auction information.

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With respect to claim 26, Perkowski, Livingston, and Fisher failed to teach, wherein the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying keywords, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying keywords and to modify in Perkowski because such a modification would allow Perkowski to have the ability to access Internet sites using specific keywords for items.

With respect to claim 27, this dependent claim is rejected for the similar rationale given above for claim 26.

With respect to claim 28, this dependent claim is rejected for the similar rationale given above for claims 26 and 27.

With respect to claim 29, Perkowski and Livingston failed to teach, wherein the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying particular ones of the auction sites.

Fisher discloses the host computer (col. 7, lines 25-26) and the host graphical user interface (col. 7, lines 31-41) are further adapted for enabling a shopper to restrict the class of items by specifying particular ones of the auction sites (col. 7, lines 24-41 and lines 50-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying particular ones of the auction sites and to include in Perkowski's securities



trading system, in order to allow a shopper when specifying a class of items to call up an index of available merchandise by pressing a button or returning to a central home page.

With respect to claim 30, Perkowski and Livingston failed to teach, wherein the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying a particular type of auction site in which the shopper is interested. Fisher teaches, the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying a particular type of auction site in which the shopper is interested (col. 8, lines 42-46, fig. 3, and fig. 6). Also see claim 29, *supra*.

With respect to claim 31, Perkowski and Livingston failed to teach, wherein the particular type of auction site includes person-to person auctions and business-to-person auctions. Fisher teaches, the particular type of auction site includes person-to person auctions and business-to-person auctions (col. 4, lines 46-67 and col. 5, lines 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the particular type of auction site to include person-to person auctions and business-to-person auctions and to include in Perkowski's securities trading system, in order to allow the a business in an electronic auction system to award merchandise to a top bidder (person) or a person to award merchandise to another person with the highest bid such as the auctions on e-bay.

With respect to claim 32, Perkowski and Livingston failed to teach, wherein the host computer and the host graphical user interface are further adapted for enabling a

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shopper to restrict the class of items by specifying a time frame in which the host detected that and item within the class is available at one of the auction sites. Fisher teaches, the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying a time frame in which the host detected that and item within the class is available at one of the auction sites (col. 7, lines 1-23 and see claim 19), *supra*.

With respect to claim 33, Perkowski and Livingston failed to teach, wherein the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying a specific price and a price range for the class of items. Fisher teaches, wherein the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying a specific price and a price range for the class of items (col. 4, lines 46-67 and col. 5, lines 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying a specific price and a price range for the class of items. Fisher teaches, wherein the host computer and the host graphical user interface are further adapted for enabling a shopper to restrict the class of items by specifying a specific price and a price range for the class of items and to modify in Perkowski because such a modification would allow Perkowski to view the items and their prices and to place the bids in that price range.

### **Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to Applicants' disclosure.

Baty, James B. II and Lee, Ronald M. disclosed an electronic shopping network.

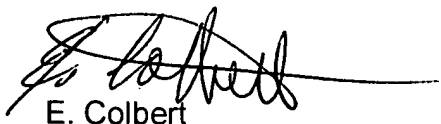
Andrews, Whit disclosed OpenSite which is a startup auction-technology provider.

### **Inquiries**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Tuesday-Thursday, 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Primary Examiner  
December 8, 2005